

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **March 23, 2004**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Business And Professional License Payment Change From Two Installments To One, Due May 1 Of Each Year**

RECOMMENDATION:

Adopt an ordinance to amend and reenact Section 36-126.6 of the City Code to provide for payment of Business and Professional Licenses (BPOL) in one payment due May 1 of each year.

SUMMARY:

Effective January 31, 1981, City Council amended the City Code to provide for the payment of BPOL Taxes in two installments, sixty percent (60%) due March 1 and forty percent (40%) due June 1 compared to the previous single payment requirement due February 1 of each year.

Challenges with current process/system:

- As a result of the conversion to two installments, an existing accounts receivable system was modified to record assessments and payments.
- All payments must be hand keyed twice
- With the existing system, all penalties and interest have to be manually calculated separately for each installment and for the number of months past due for each installment which subjects the process to human error.
- The current system is antiquated and cannot be interfaced to the New World Financial System (NWS) to systematically record the payments.
- Research has been completed in an attempt to identify an automated accounts receivable system that can accommodate two payments dates, including the NWS Accounts Receivable module that is in the process of being implemented. None of the systems researched, including the NWS, can accommodate two payment dates.

Recommendation:

- Beginning with May 1, 2005, eliminate the collection of BPOL Taxes in two installments and require full payment on May 1 of each year.

Advantages:

- Businesses would have two additional months to prepare for the BPOL tax payment and those who are currently opting for two installments would only have to accelerate their installment payment by one month.
- Provides for the use of the NWS Business License module which will interface to all other modules of the NWS and eliminate double keying of payments

- Eliminates the manual process for calculating penalty and interest thereby improving accuracy and customer service at the cashier locations.
- Allows more time for the Delinquent Collections staff to collect unpaid licenses in the current fiscal year.
- Budget savings of \$500 would result by eliminating two mailings for the reminder notices and the forty percent (40%) due bill.

PRIOR ACTION(S):

December 2, 2003: Finance Committee

February 3, 2004: Finance Committee

March 2, 2004: Finance Committee

FISCAL IMPACT: Based on the analysis, there is only a minor change in the balance of cash and investments if the payment date is changed to May 1 of each year.

CONTACT(S): Donna Witt, Assistant Director of Financial Services, 455-3968
Michael W. Hill, Director of Financial Services, 455-4218

ATTACHMENT(S): Recommended Ordinance

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 36-126.6 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO BUSINESS AND PROFESSIONAL LICENSE DUE DATES, LIMITATIONS AND EXTENSIONS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 36-126.6 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 36-126.6. License requirements; filing procedures; due dates; limitations and extensions.

(a) License requirements.

(1) Every person shall apply for a license for each business or profession when engaging in a business in the city if (i) such person maintains a definite place of business in the city; (ii) such person does not maintain a definite office anywhere, but does maintain an abode in the city, which abode, for the purposes of this article, shall be deemed a definite place of business; (iii) there is no definite place of business in this city but the person operates amusement machines or is engaged in business as an itinerant merchant, peddler, carnival, circus as specified in Virginia Code Sections 58.1-3717, 3718, or 3728, respectively, or successor sections; or is engaged in business as a contractor subject to Virginia Code Section 58.1-3715, or successor section, or public service corporation subject to Virginia Code Section 58.1-3731, or successor section.

(2) A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the city; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(3) Any person doing business at more than one place of business shall be required to take out a separate license for each such place of business. Each such place of business shall constitute a separate and distinct place of business requiring the payment of a license tax as provided for under this article.

(b) Filing procedures.

(1) No license shall be issued by the commissioner of the revenue for the conduct of any business upon any vacant lot or in any building in the city, unless and until the applicant for the license shall present a certificate of occupancy furnished by the building inspector of the city to the effect that the proposed use of said premises is not a violation of the provisions of the city zoning ordinance.

(2) No license shall be issued by the commissioner of the revenue for the conduct of any business as a partnership or any business utilizing a fictitious or assumed name, unless and until the applicant for the license shall present a receipt furnished by the clerk of the circuit court certifying registration of such partnership or fictitious or assumed name.

(3) If the business in question is one for which a license can be granted only on the permit of a court or other officer, such license shall not be valid or effective until such certificate has been obtained and presented to the commissioner of the revenue. This requirement shall include, but is not limited to, the following:

Bondsman
Dealers in precious metals
Pawnbroker
Door-to-door sales/solicitors.

(4) All persons liable for the payment of a license tax under the provisions of this article shall make application therefore to the commissioner of the revenue. The commissioner shall furnish the necessary forms which shall be properly and fully executed by the applicant and shall contain such information as may be required by the commissioner. In cases where the license tax is based upon gross receipts or purchases of the business or occupation to be licensed, the commissioner shall require a sworn statement from the applicant of the amount of such gross receipts or purchases during the preceding year, except in the case of a beginner as hereinafter defined. The commissioner shall assess such applicant, or the person of whom the license is required, with the license tax required by this article.

(5) Every person beginning a business, profession, trade or occupation is subject to a license tax under the provisions of this article and which is based in whole or in part on gross receipts or purchases, shall estimate the amount of gross receipts he will receive or the amount of purchases he will make between the date of beginning business and the end of the then current license year, and his license tax for the then current year shall be computed upon such estimate. Any person who has not been in business for one full license period when making application for a license shall be considered as a beginner and the amount of his license tax for the then current year shall be computed accordingly. Whenever a license tax is so computed upon the estimated gross receipts or estimated purchases, any erroneous estimate shall be subject to correction, and the commissioner of the revenue shall assess such person for any additional license tax found to be due after the end of that license year, and in the case of an overestimate the taxpayer shall be entitled to a credit upon his license tax payable the following year.

(c) Due dates.

(1) Each person subject to a license tax shall apply for a license prior to beginning business if such person was not subject to licensing in this city on or before January 1 of the license year. If such person had been issued a license for the preceding license year, the application shall be on forms prescribed by the commissioner of the revenue.

(2) Any person beginning a business, employment or profession after January 1, unless otherwise stated, shall first file with the commissioner of the revenue an application for a license covering such business, employment or profession and the license tax shall be paid to the billings and collections division within thirty (30) days of beginning business or ~~March-May 1~~, whichever is later. Any person conducting any licensable business, employment or profession on or before the first day of January of any year shall file the license application with the commissioner of the revenue on or before ~~March-May 1~~ of such year and ~~sixty percent (60%) of the license tax shall be paid to the billings and collections division on or before March-May 1, with the remaining forty percent (40%) payable on or before June 1, except as otherwise herein provided. The tax shall be paid with the application in the case of any license not based on gross receipts/purchases.~~

(d) Limitations and extensions.

(1) The commissioner of the revenue may, for reasonable cause, grant a thirty (30) day extension in which to file an application for a license. ~~The extension shall be conditioned upon the timely payment of sixty percent~~

~~(60%) of the previous year's license tax liability, subject to adjustment to the correct tax at the end of the extension.~~

(2) No such license shall be issued until such applicant has produced satisfactory evidence that all delinquent business license, business personal property, meals, amusement, and transient occupancy taxes owed to the city have been paid.

(3) A license issued under this article shall not be valid or effective until the tax required by this chapter has been paid to the billings and collections division.

(4) Notwithstanding Virginia Code Section 58.1-3903, or successor section, the commissioner of the revenue shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six (6) preceding license years.

(5) The period for collecting any local license tax shall not expire prior to the period specified in Virginia Code Section 58.1-3940, or successor section, two (2) years after the date of assessment if the period for assessment has been extended pursuant to this section, two (2) years after the final determination of an appeal for which collection has been stayed pursuant to the appeal and ruling process described in this article, or two (2) years after the final decision in a court application pursuant to Virginia Code Section 58.1-3984, or successor section, or similar law for which collection has been stayed, whichever is later.

(e) Any person conducting a licensable business, employment or profession who does not comply with the provisions of this section shall be guilty of a class 2 misdemeanor as set forth in Sec. 36-126.9 of this article.

2. That this ordinance shall become effective January 1, 2005.

Adopted:

Certified:

Clerk of Council

042L